

for dismissal. Statutes of limitations are substantive, not procedural, therefore, state law prescribes the limitations period. However, Defendant's motion is premised upon an Illinois procedural mechanism, 735 ILCS 5/2-619, and Illinois Supreme Court Rule 103, rather than federal procedural rules. Consequently, the Court cannot properly analyze Defendant's motion.

IT IS THEREFORE ORDERED that Defendant International Comfort Products' Motion to Dismiss Pursuant to 735 ILCS 5/2-619 (Doc. 5) is **DENIED, without prejudice**. Defendant is free to re-file the motion to dismiss, provided it is premised upon federal procedural law.

IT IS SO ORDERED.

DATED: July 20, 2011

s/ Michael J. Reagan
MICHAEL J. REAGAN
UNITED STATES DISTRICT JUDGE